

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

MARY S.,

Plaintiff,

v.

CIVIL ACTION NO. 2:23-cv-00302

KILOLO KIJAKAZI,

Acting Commissioner for the Social Security Administration,

Defendant.

ORDER

Pending before the Court is Plaintiff's complaint, which seeks review of the final decision of the Acting Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits. (ECF No. 2.) By Standing Order entered in this case on April 4, 2023, this action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 4.) Magistrate Judge Aboulhosn filed his PF&R on August 24, 2023, recommending that this Court grant Plaintiff's request for remand, deny Defendant's request to affirm the final decision, reverse the final decision of the Acting Commissioner, and remand this matter back to the Acting Commissioner for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g).

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file

timely objections constitutes a waiver of *de novo* review. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R were due on September 7, 2023. To date, no objections have been filed. Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 13), **DENIES** the Acting Commissioner’s request to affirm the decision below, (ECF No. 11), **GRANTS** Plaintiff’s request for remand, (ECF No. 10), and **REMANDS** this matter back to the Acting Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) for further administrative proceedings.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 28, 2023



THOMAS E. JOHNSTON, CHIEF JUDGE